

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: Original
POSITION: Oppose

BILL NUMBER: AB 500
AUTHOR: Gonzalez, Lorena

BILL SUMMARY: School and community college employees: paid maternity leave.

This bill requires K-12 schools, charter schools, and community college districts (LEAs) to provide female certificated, classified, and academic employees at least six weeks of leave with full pay for pregnancy, childbirth, miscarriage, recovery, or a related condition in addition to any and all other available leaves of absence. The bill also requires the governing board of a school district, the governing body of a charter school, and the governing board of a community college district to adopt rules and regulations prescribing the manner of proof of pregnancy, the duration of the leave of absence, and the requirement that the leave of absence be provided with full pay.

FISCAL SUMMARY

This bill will create significant costs for LEAs to provide at least six weeks of paid leave to applicable employees. If one percent of K-14 employees take advantage of the leave proposed by this bill, LEAs could incur costs of \$20 million to \$48 million. It is unclear if the bill will result in a reimbursable state mandate based on Commission on State Mandates decisions and court rulings regarding employee benefits.

In addition to the cost of providing paid leave to applicable employees, LEAs will likely incur substitute employee costs in the millions of dollars for the period that applicable employees are on leave as a result of the benefit provided by this bill. If the Commission determines that the cost of substitutes in lieu of employees on leave is a reimbursable state mandate, the bill could cost millions of dollars Proposition 98 General Fund. Specifically, if one percent of K-14 employees take advantage of the leave proposed by this bill, the cost of substitute employees could be \$13 million to \$24 million.

Finally, the bill could create a reimbursable state mandate that could cost tens of thousands of dollars Proposition 98 General Fund by requiring the governing board of a school district and the governing board of a community college district to adopt rules and regulations prescribing the manner of proof of pregnancy, the duration of the leave of absence, and the requirement that the leave of absence be provided with full pay.

COMMENTS

While this bill proposes the laudable goal of providing an additional maternity leave benefit for specified employees, the Department of Finance opposes this bill for the following reasons:

- The bill reduces the flexibility of LEAs and bargaining units to agree on employee benefits in a manner that reflects local needs and priorities. Moreover, mandating employee benefits such as maternity leave through legislation sets a precedent for other represented government employee groups to seek paid maternity and paternity leave. Notably, this bill is an extension of the paid parental leave provided to K-12 certificated employees pursuant to Chapter 400, Statutes of 2015 (AB 375), and the paid bonding leave provided to all K-12 and community college employees pursuant to Chapter 883,

Analyst/Principal (0332) E.Hanson	Date	Program Budget Manager Jeff Bell	Date
Department Deputy Director			Date
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

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Statutes of 2016 (AB 2393).

- The bill will cost millions of dollars for LEAs to provide at least six weeks of paid leave to applicable employees. These costs will be absorbed by LEAs within existing resources, however, these costs could be state reimbursable Proposition 98 General Fund costs if LEAs are successful with a mandate test claim.
- LEAs will likely incur substitute employee costs in the millions of dollars for the period that applicable employees are on leave as a result of the benefit provided by this bill. If the Commission determines that the cost of substitutes in lieu of employees on leave is a reimbursable state mandate, the bill could cost millions of dollars Proposition 98 General Fund.
- The bill could create a reimbursable state mandate that could cost tens of thousands of dollars Proposition 98 General Fund by requiring the governing board of a school district and the governing board of a community college district to adopt rules and regulations prescribing the manner of proof of pregnancy, the duration of the leave of absence, and the requirement that the leave of absence be provided with full pay.
- The bill creates the potential for an applicable employee to be on maternity leave receiving full or partial pay for nearly an entire academic year when the leave required by this bill is added to existing statutorily available leave benefits. Despite the intent of this bill to provide greater benefits as a means to attract individuals to the teaching profession, the benefit could increase the difficulties experienced by LEAs in staffing classrooms with qualified instructors.

ANALYSIS

1. Programmatic Analysis

Existing state law establishes the California Family Rights Act (CFRA), which provides employees up to 12 weeks of unpaid job-protected leave for the birth of a child or adoption or foster care placement of a child, to care for an immediate family member with a serious health condition, or when the employee is unable to work because of a serious health condition. To be eligible for the CFRA leave, an employee must have worked at least 1,250 hours in the past 12 months. This precludes most part time employees from the unpaid job-protected benefit. The state's CFRA conforms with the federal Family Medical Leave Act. Existing law also provides for pregnancy disability leave and most employees are eligible for paid sick leave.

AB 375, effective January 1, 2016, requires schools to provide differential pay for up to 12 weeks of leave to any full-time K-12 certificated employee on maternity or paternity leave provided under CFRA, in addition to the employee's accrued sick leave. Prior to the passage of the bill, only female K-12 certificated employees could take CFRA maternity leave and receive differential pay (which represents the difference in pay between the salary of the employee and the cost of any required substitute).

AB 2393, effective January 1, 2017, requires K-12 school districts and community college districts to provide paid parental leave for all employees and clarified that: (1) an employee is required to exhaust paid sick leave prior to utilizing paid CFRA leave, (2) CFRA leave is capped at 12 weeks including accrued sick leave, (3) paid parental leave runs concurrent with CFRA leave, and (4) paid parental leave benefits extend to part-time certificated employees. The bill specified that, depending on the differential pay system the employer uses for this benefit, the differential pay provided to the employee after exhausting available sick leave must be either: (1) the difference in pay between the salary of the

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employee and the cost of any required substitute, or (2) not less than 50 percent of the employee's salary. The bill also defined parental leave to include leave for the birth of the employee's child, or placement of a child with the employee in connection with an adoption, or foster care of a child by the employee.

AB 568 (2017, Gonzalez) is substantially similar to this bill and would have provided all female employees with at least six weeks of leave with full pay for any absence related to pregnancy, miscarriage, childbirth, and recovery therefrom in addition to all other leave benefits available to the employee. The bill was vetoed on the basis that further leave policies for school employees are likely best resolved through collective bargaining at the local level.

2. Fiscal Analysis

This bill was keyed non-fiscal by the Legislative Counsel. However, this bill will result in significant costs for LEAs to provide applicable employees with at least six weeks of maternity leave with full pay.

Notwithstanding the uncertainty of employee benefits and the potential for a reimbursable state mandate for providing paid leave, the Commission could determine that the cost of substitute employees serving in lieu of permanent employees on leave is a reimbursable state mandate, which could create state costs in the millions of dollars Proposition 98 General Fund. If the Commission determines that the cost of substitute employees is not state-reimbursable, LEAs will need to absorb this cost within existing resources

Finally, costs could be higher and indeterminable because the bill requires at least six weeks of paid leave be provided, but does not specify a maximum time limit for paid leave.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)					
	LA	(Dollars in Thousands)					
	CO RV	PROP 98	FC	2018-2019 FC	2019-2020 FC	2020-2021	Fund Code
6100/Dep of Educ	LA	Yes	C	0-0 C	5,700-10,300 C	11,400-20,600	0001
6870/Comm College	LA	No	C	0 C	950-1,700 C	1,900-3,400	0001